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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LORENZO CRUZ GONZALEZ,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 08-70960

Agency No. A97-857-955

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted August 11, 2008<sup>\*\*</sup>

Before: CANBY, LEAVY and KLEINFELD, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")  
decision denying petitioner's motion to reissue the prior decision denying  
petitioner's application for cancellation of removal.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

After reviewing the record, we conclude the BIA did not abuse its discretion denying petitioner's motion to reissue after petitioner contended he did not receive the decision. *See Singh v. Gonzales*, 494 F.3d 1170 (9th Cir. 2007). The BIA noted that the decision denying the appeal was mailed to the address petitioner provided in his notice of appeal to the BIA. Petitioner moved from that address and failed to provide notice of the change, but also stated in his motion to reissue that he has lived "in the same address" and has experienced problems with mail delivery. In light of the ambiguous information provided to the agency, the BIA did not abuse its discretion by finding petitioner's statements insufficient to rebut the presumption of receipt or by denying the motion to reissue. *Cf. id.* at 1172-73 (remanding where BIA failed to acknowledge affidavits of non-receipt and failed to explain conclusion that decision was properly mailed). We therefore grant respondent's motion for summary denial of the petition.

The motion for stay of voluntary departure, filed after the departure period had expired, is denied. *See Garcia v. Ashcroft*, 368 F.3d 1157 (9th Cir. 2004).

All other pending motions are denied as moot. The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

**PETITION FOR REVIEW DENIED.**